

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 505.8 and chapter 505B, the Insurance Division (the Division) hereby amends Chapter 4, “Agency Procedure for Rule Making and Waiver of Rules,” Chapter 20, “Property and Casualty Insurance,” Chapter 30, “Life Insurance Policies,” Chapter 35, “Accident and Health Insurance,” Chapter 39, “Long-Term Care Insurance,” and Chapter 40, “Health Maintenance Organizations,” Iowa Administrative Code.

Iowa Code chapter 505B, which became effective on July 1, 2014, authorizes insurers and policyholders to consent to the delivery of notices or documents by electronic means. Amendments to Iowa Code chapter 505B were enacted by 2015 Iowa Acts, House File 504, and became effective July 1, 2015. The amendments to Iowa Code chapter 505B prohibit the use of electronic means to provide required notices of cancellation, nonrenewal or termination. However, the amendments to Iowa Code chapter 505B contemplate that the Iowa Insurance Commissioner may approve an insurance company’s proposed electronic means of delivery of a notice or document.

The purpose of these amendments is to clarify the authorized methods of delivery for notices of cancellation, nonrenewal or termination and to recognize acceptable proof of receipt for such notices, so as to implement the various policyholder protections intended by Iowa Code chapter 505B as amended by 2015 Iowa Acts, House File 504; chapter 508; and sections 509B.5, 513B.5, 514B.17, 514B.17A, 514D.3, 514G.111, 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29, and 519.8; and by rules 191—39.22(514G), 191—40.10(514B), and 191—92.6(508). The amendments prescribe the manner in which an insurance company may seek the Commissioner’s approval of a proposed electronic means of delivery.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 5, 2015, as **ARC 2078C**. Written comments were accepted through September 4, 2015, and a public hearing was held on September 3, 2015, at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa. Several comments were received. The following list summarizes the changes made to the proposed amendments in response to public comment and Division review.

1. A definition of “Intended recipient” was added to paragraph 4.24(2)“a.” The term “intended recipient” replaces other proposed language in paragraph 4.24(2)“d,” and the term is referenced in new paragraph 4.24(2)“f.”

2. Clarifying changes were made to proposed paragraph 4.24(2)“d,” language was added in a new paragraph 4.24(2)“f,” and proposed paragraph 4.24(2)“f” was relettered as paragraph 4.24(2)“g.” In addition, clarifying changes were made to relettered paragraph 4.24(2)“g.”

3. Language was simplified in subrules 20.80(3), 30.9(3), 35.9(3), 39.33(3), and 40.26(3).

4. All references to 2015 Iowa Acts, House File 504, have been updated to Iowa Code references. As a result, the amendment in Item 4 of the Notice to add the House File reference to an implementation sentence is no longer necessary and has been removed. Subsequent items have been renumbered accordingly.

The Insurance Division’s waiver provisions in 191—Chapter 4 apply to this rule making.

These amendments will impose no fiscal impact to the State.

After review and analysis of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 505B.

These amendments shall become effective March 23, 2016.

The following amendments are adopted.

ITEM 1. Amend rule 191—4.24(17A) as follows:

191—4.24(17A) Criteria for waiver or variance.

4.24(1) *Criteria for order for waiver or variance.* In response to a petition completed pursuant to rule 191—4.26(17A), except for a petition seeking a waiver order issued pursuant to subrule 4.24(2), the insurance division may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the division finds, based on clear and convincing evidence, all of the following:

~~1. a.~~ Application of the rule would impose an undue hardship on the person for whom the waiver is requested;

~~2. b.~~ Waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

~~3. c.~~ Provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law;

~~4. d.~~ Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested; and

~~5. e.~~ If the rule implements Iowa Code chapter 502, or is being applied in conjunction with implementation of Iowa Code chapter 502, a waiver may be granted only if the waiver is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of Iowa Code chapter 502.

4.24(2) *Criteria for waiver or variance related to approval of a manner of electronic delivery of notices of cancellation, nonrenewal or termination.* This subrule is intended to implement Iowa Code sections 17A.9 and 505B.1.

a. For purposes of Iowa Code chapter 505B and this subrule, the following definitions shall apply:

“Commissioner” means the Iowa insurance commissioner or insurance division.

“Intended recipient” means the person to whom notice is required to be delivered, including but not limited to notices listed in the definition of “notice of cancellation, nonrenewal or termination” in this paragraph and in 191—paragraphs 20.80(1)“b,” 30.9(1)“b,” 35.9(1)“b,” 39.33(1)“b,” and 40.26(1)“b.”

“Notice of cancellation, nonrenewal or termination” means:

1. Notice of an insurance company’s termination of an insurance policy at the end of a term or before the termination date;

2. Notice of an insurance company’s decision or intention not to renew a policy; and

3. For purposes of notices required by Iowa Code chapters 505B, 508, 509B, 513B, 514, 514B, 514D, 514G, 515, 515D, 518, 518A and 519, “notice of cancellation, nonrenewal or termination” includes but is not limited to the following:

• An insurance company’s notice of cancellation, nonrenewal, suspension, exclusion, intention not to renew, failure to renew, termination, replacement, rescission, forfeiture or lapse in an annuity policy, a life insurance policy, a long-term care insurance policy, or an insurance policy other than life;

• An insurance company’s rescission or discontinuance of an accident and health insurance policy;

• An insurance company’s notice of cancellation of personal lines policies or contracts;

• A health maintenance organization’s notice to an enrollee of cancellation or rescission of membership;

• An employer’s or group policyholder’s notice to an employee or member of the termination or substantial modification of the continuation of an employer group accident or health policy; or

• A carrier’s or organized delivery system’s advance notice to affected small employers, participants, and beneficiaries of its decision to discontinue offering a particular type of health insurance coverage.

b. This subrule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance in Iowa, health maintenance organizations, employers, group policyholders, carriers and organized delivery systems and to all requirements by statute or rule related to notices of cancellation, nonrenewal or termination. This subrule shall apply when an insurance company, health

maintenance organization, employer, group policyholder, carrier or organized delivery system seeks the commissioner's approval of a manner for delivering by electronic means required notices of cancellation, nonrenewal or termination, as described in Iowa Code section 505B.1.

c. The commissioner, by order pursuant to this chapter, may approve a request for approval of a manner for delivering notices of cancellation, nonrenewal or termination by an electronic means if the commissioner has jurisdiction to enforce the statute or rule requiring the notice and if the requested approval is consistent with Iowa Code section 505B.1 and with this chapter.

d. In response to a petition submitted pursuant to rule 191—4.26(17A) and related statutes and rules, the commissioner may issue an order approving an insurer's proposed manner for delivering notices of cancellation, nonrenewal or termination by an electronic means rather than mail, if the commissioner finds, based on clear and convincing evidence, all of the following:

(1) The proposed manner allows the commissioner, the insurer and the intended recipient to verify receipt by the intended recipient;

(2) The proposed manner provides for consent, by the intended recipient, to have notices or documents delivered by electronic means, in compliance with Iowa Code chapter 505B; and

(3) The proposed manner provides that the insurance company shall maintain adequate records of notices, receipts and consents. The records shall be available for review upon request by the commissioner and the intended recipient and shall be maintained for a period of five years from the date of cancellation, nonrenewal or termination.

e. Such an order would constitute approval by the commissioner to satisfy Iowa Code chapter 505B.

f. Although any proposed manner that complies with the above requirements may be approved, the following system is provided as an example, for purposes of guidance, of an insurer's system of verifiable receipt that will be approved by the commissioner, if the system includes all of the following aspects:

(1) The system provides that the intended recipients shall give written consent to the insurer of delivery of required notices of cancellation, nonrenewal and termination by electronic means, in compliance with Iowa Code section 505B.1.

(2) The system provides that, when an insurer is required to provide notices of cancellation, nonrenewal and termination, the insurer shall provide to the intended recipients a link to the required notice by electronic mail.

(3) The system provides that the insurer provide intended recipients with user names and passwords to log in to the insurer's notice system Web site.

(4) The system provides that the link required by subparagraph 4.24(2) "f"(2) shall be to a secure Web site that requires the intended recipients' user names and passwords for the intended recipients to access insurer's notice system Web site and the contents of the notices.

(5) The system provides that, when the intended recipients log in to the insurer's notice system Web site, either the insurer's notice to the intended recipients or the intended recipients' online inboxes will be the first thing automatically displayed.

(6) The system provides a procedure whereby, if the intended recipients do not log in to the intended recipients' accounts within seven days after the insurer sent the link to the intended recipients by e-mail, the insurer shall mail paper copies of the notices to the intended recipients' last-known physical addresses.

(7) The system provides for adequate maintenance of records by the insurer as required by subparagraph 4.24(2) "d"(3).

g. The commissioner may, upon proper request by an insurance company pursuant to rule 191—1.3(22,502,505) or another applicable rule, maintain the confidentiality of information in any document or materials submitted in support of a request for approval under this rule:

(1) If release of the specific information would disclose trade secrets protected by law pursuant to Iowa Code section 22.7(3) and rule 191—1.3(22,502,505); or

(2) If the specific information otherwise must be withheld from public inspection pursuant to Iowa Code chapter 22 or rule 191—1.3(22,502,505).

Only such information that requires confidentiality pursuant to Iowa Code section 22.7 and rule 191—1.3(22,502,505) may be withheld from public inspection, and any reasonably separable portion of a record shall be provided to any person requesting such record after deletion of the portions which are withheld pursuant to Iowa Code section 22.7 and rule 191—1.3(22,502,505).

ITEM 2. Amend rule 191—20.80(505B,515,515D,518,518A,519) as follows:

191—20.80(505B,515,515D,518,518A,519) Notice of cancellation, nonrenewal or termination of property and casualty insurance.

20.80(1) Purpose and definitions.

a. Purpose. The purpose of this rule is to implement the policyholder protections of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 and chapter 505B by clarifying the authorized methods of delivery for notices of cancellation, nonrenewal and or termination by an insurer. ~~Presumption of receipt in the context of a postal service mailing is a well settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4)“b,”~~ delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

b. Definitions. As used in Iowa Code section 505B.1 and this rule:

“Commissioner” means the Iowa insurance commissioner or insurance division.

“Notice of cancellation, nonrenewal or termination” means:

1. Notice of an insurance company’s termination of an insurance policy at the end of a term or before the termination date;

2. Notice of an insurance company’s decision or intention not to renew a policy; and

3. For purposes of notices required by Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8, “notice of cancellation, nonrenewal or termination” includes but is not limited to an insurance company’s notice of cancellation, forfeiture, suspension, exclusion, nonrenewal, intention not to renew, or failure to renew.

20.80(2) No change.

20.80(3) Delivery ~~and receipt.~~ For any notice of cancellation, nonrenewal or termination by an insurer under Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 to be effective, an insurer must, within the time frame established by law, ~~either~~ deliver the notice to the ~~named insured person to whom notice is required to be provided either in person or by mail the notice~~ through the U.S. Postal Service to the last-known address of the ~~named insured person to whom notice is required to be provided.~~ The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in the Iowa Code sections cited in this subrule for certified mail or certificate of mailing as proof of mailing.

20.80(4) Electronic transmissions. ~~Electronic transmissions do not currently~~ Notwithstanding the requirements of subrule 20.80(3), if an insurer receives, pursuant to 191—subrule 4.24(2), approval from the commissioner of a manner of electronic delivery of a notice of cancellation, nonrenewal or termination of a policy, the approved manner shall satisfy the notice requirements of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 and chapter 505B. However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

ITEM 3. Amend rule 191—30.9(505,508) as follows:

191—30.9(505,508) Notice of cancellation, ~~forfeiture, lapse,~~ nonrenewal or termination of life insurance and annuities.

30.9(1) Purpose and definitions.

a. Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, ~~forfeiture, lapse,~~ nonrenewal and or termination by an insurer or insurance producer required for contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25, so as to require reasonable procedures for providing notice to policyholders of the consequences of cancellation, ~~forfeiture, lapse,~~ nonrenewal or termination of life insurance and annuity contracts. ~~In universal life contracts, specific advance notice is required by rule 191—92.6(508).~~ The Uniform Electronic Transactions Act, in Iowa Code section 554D.110(4) “b,” provides that a requirement under a law to send, communicate, or transmit a record by first-class mail postage prepaid may be varied by agreement to the extent permitted by the other law. Notification regulation should effectively require reasonable advance notice to life insurance and annuity policyholders that insurance coverage will cease or be placed under a nonforfeiture benefit on a date certain. ~~Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).~~

b. Definitions. As used in Iowa Code section 505B.1 and this rule:

“Commissioner” means the Iowa insurance commissioner or insurance division.

“Notice of cancellation, nonrenewal or termination” means:

1. Notice of an insurance company’s termination of an insurance policy at the end of a term or before the termination date;
2. Notice of an insurance company’s decision or intention not to renew a policy; and
3. For purposes of notices of cancellation, nonrenewal or termination of contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25, “notice of cancellation, nonrenewal or termination” includes but is not limited to the following:
 - An insurance company’s notice of cancellation, nonrenewal or termination of life insurance or annuities;
 - Notice of replacement of life insurance, for which specific notice is required to be provided by the insurance producer pursuant to rule 191—16.24(507B); and
 - Notice of termination of universal life contracts, for which specific advance notice is required to be provided by the insurance company pursuant to rule 191—92.6(508).

30.9(2) No change.

30.9(3) Delivery ~~and receipt.~~ For any notice of cancellation, ~~forfeiture, lapse,~~ nonrenewal or termination by an insurer in contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25 to be effective, an insurer must, within the time frame established by law, or such reasonable time in advance and as governed by contract, ~~either deliver the notice to the named insured person to whom notice is required to be provided either in person or by mail the notice through the U.S. Postal Service to the last-known address of the named insured person to whom notice is required to be provided.~~ For replacements of life insurance, specific notice is required to be provided by the insurance producer pursuant to rule 191—16.24(507B). For universal life contracts, specific advance notice of termination is required to be provided by the insurance company pursuant to rule 191—92.6(508). The use of U.S. Postal Service Intelligent Mail® fulfills any requirement for the contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25 and for notices required by rule 191—16.24(507B) or 191—92.6(508) for certified mail or certificate of mailing as proof of mailing.

30.9(4) Electronic transmissions. ~~Electronic transmissions do not currently~~ Notwithstanding the requirements of subrule 30.9(3), if an insurer receives, pursuant to 191—subrule 4.24(2), approval from the commissioner of a manner of electronic delivery of a notice for cancellation, nonrenewal

or termination of a policy, the approved manner shall satisfy the requirements of Iowa Code section 505B.1 or 508.25, rule 191—16.24(507B) or 191—92.6(508), or this rule ~~or of rule 191—92.6(508)~~. However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

ITEM 4. Amend rule 191—35.9(509B,513B,514D) as follows:

191—35.9(509B,513B,514D) Notice of cancellation, ~~rescission, discontinuance~~ nonrenewal or termination of accident and health insurance.

35.9(1) Purpose and definitions.

a. Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, ~~rescission, discontinuance and nonrenewal or termination~~ by an insurer, issuer, employer, group policyholder, carrier or organized delivery system, so as to implement the various policyholder protections intended by Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A and chapter 505B. Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

b. Definitions. As used in Iowa Code section 505B.1 and this rule:

“Commissioner” means the Iowa insurance commissioner or insurance division.

“Notice of cancellation, nonrenewal or termination” means:

1. Notice of termination of an insurance policy at the end of a term or before the termination date;
2. Notice of a decision or intention not to renew a policy; and
3. For purposes of notices required by Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A and chapter 505B, “notice of cancellation, nonrenewal or termination” includes but is not limited to the following:

- An employer’s or group policyholder’s notification to employees or members of the termination or substantial modification of the continuation of an employer group accident or health policy pursuant to Iowa Code section 509B.5;

- A carrier’s or organized delivery system’s advance notice to all affected small employers, participants, and beneficiaries of its decision to discontinue offering a particular type of small group health insurance plan pursuant to Iowa Code section 513B.5(1) “e”(2);

- An insurance company’s notice of termination of an individual accident and sickness policy, pursuant to rules promulgated pursuant to Iowa Code section 514D.3;

- An insurance company’s notice of forfeiture, suspension, cancellation, or intention not to renew, pursuant to Iowa Code section 515.125; or

- An insurance company’s notice of cancellation of personal lines policies or contracts pursuant to Iowa Code section 515.129A.

35.9(2) No change.

35.9(3) Delivery ~~and receipt.~~ For any notice of cancellation, ~~rescission, discontinuance~~ nonrenewal or termination by an insurer ~~under Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A,~~ employer, group policyholder, carrier or organized delivery system to be effective, an insurer, employer, group policyholder, carrier or organized delivery system must, within the time frame established by law, either deliver the notice to the ~~named insured~~ person to whom notice is required to be provided either in person or by mail ~~the notice~~ through the U.S. Postal Service to the last-known address of the ~~named insured~~ person to whom notice is required to be provided. The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in the Iowa Code sections cited in this subrule for certified mail or certificate of mailing as proof of mailing.

35.9(4) Electronic transmissions. ~~Electronic transmissions do not currently~~ Notwithstanding the requirements of subrule 35.9(3), if an insurer, issuer, employer, group policyholder, carrier or organized delivery system receives, pursuant to 191—subrule 4.24(2), approval from the commissioner of a manner of electronic delivery of a notice of cancellation, nonrenewal or termination of a policy, the

approved manner shall satisfy the notice requirements of Iowa Code sections 509B.5, 513B.5, and 514D.3, 515.125 and 515.129A and chapter 505B. However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapters 505B, 509B, 513B, 514D, and 515.

ITEM 5. Amend rule 191—39.33(514G) as follows:

191—39.33(514G) Notice of cancellation, forfeiture, lapse nonrenewal or termination of long-term care insurance.

39.33(1) Purpose and definitions.

a. Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, forfeiture, lapse and nonrenewal or termination by an insurer, so as to implement the various policyholder protections intended by Iowa Code section 514G.111 and rule 191—39.22(514G). Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

b. Definitions. As used in Iowa Code section 505B.1 and this rule:

“Commissioner” means the Iowa insurance commissioner or insurance division.

“Notice of cancellation, nonrenewal or termination” means:

1. Notice of an insurance company’s termination of an insurance policy at the end of a term or before the termination date;

2. Notice of an insurance company’s decision or intention not to renew a policy; and

3. For purposes of notices required by Iowa Code section 514G.111 and rule 191—39.22(514G), at a minimum, an insurance company’s notice of lapse or termination of a long-term care insurance policy.

39.33(2) No change.

39.33(3) Delivery and receipt. For any notice of cancellation, forfeiture, lapse nonrenewal or termination by an insurer under Iowa Code section 514G.111 and rule 191—39.22(514G) to be effective, an insurer must, within the time frame established by law, either deliver the notice to the named insured person to whom notice is required to be provided either in person or by mail the notice through the U.S. Postal Service to the last-known address of the named insured person to whom notice is required to be provided. The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in Iowa Code section 514G.111 and rule 191—39.22(514G) for certified mail or certificate of mailing as proof of mailing.

39.33(4) Electronic transmissions. ~~Electronic transmissions currently fail to~~ Notwithstanding the requirements of subrule 39.33(3), if an insurer receives, pursuant to 191—subrule 4.24(2), approval from the commissioner of a manner of electronic delivery of a notice of cancellation, nonrenewal or termination of a policy, the approved manner shall satisfy the notice requirements of Iowa Code section 514G.111 and rule 191—39.22(514G). However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

ITEM 6. Amend rule 191—40.26(514B) as follows:

191—40.26(514B) Notice of cancellation, rescission, discontinuance nonrenewal or termination of enrollment.

40.26(1) Purpose and definitions.

a. Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, rescission, discontinuance nonrenewal or termination by a health maintenance organization, so as to implement the various consumer protections intended by Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B). ~~Presumption of receipt in the context of a~~

postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

b. Definitions. As used in Iowa Code section 505B.1 and this rule:

“Commissioner” means the Iowa insurance commissioner or insurance division.

“Notice of cancellation, nonrenewal or termination” means:

1. Notice of an insurance company’s termination of an insurance policy at the end of a term or before the termination date;

2. Notice of an insurance company’s decision or intention not to renew a policy; and

3. For purposes of notices required by Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B), “notice of cancellation, nonrenewal or termination” includes but is not limited to a health maintenance organization’s notice to an enrollee of cancellation or rescission of membership.

40.26(2) No change.

40.26(3) *Delivery and receipt.* For any notice of cancellation, ~~rescission, discontinuance~~ nonrenewal or termination by a health maintenance organization under Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B) to be effective, a health maintenance organization must, within the time frame established by law, ~~either~~ deliver the notice to the named insured person to whom notice is required to be provided either in person or by mail ~~the notice~~ through the U.S. Postal Service to the last-known address of the named insured person to whom notice is required to be provided. The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B) for certified mail or certificate of mailing as proof of mailing.

40.26(4) *Electronic transmissions.* ~~Electronic transmissions do not currently~~ Notwithstanding the requirements of subrule 40.26(3), if an insurer receives, pursuant to 191—subrule 4.24(2), approval from the commissioner of a manner of electronic delivery of a notice of cancellation, nonrenewal or termination of a policy, the approved manner shall satisfy the notice requirements of Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B). ~~However, additional communication of notices by electronic means may be provided by an insurer as a service to the named insured.~~

This rule is intended to implement Iowa Code chapter 505B.

[Filed 1/29/16, effective 3/23/16]

[Published 2/17/16]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/17/16.